

HOUSE BILL 231
By Campfield

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 17, Part 4, relative to the sale of certain
over-the-counter drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by
adding the following as a new section:

Section 39-17-4__.

(a) It is an offense for any person to knowingly sell or deliver with
the intent to sell in any single over-the-counter sale more than:

(1) Three (3) packages or any number of packages that
contain a combined total of no more than nine (9) grams, of any
drug containing a sole active ingredient of ephedrine,
pseudoephedrine, phenylpropanolamine, or any of their salts,
optical isomers, or salts of optical isomers; or

(2) Three (3) packages of any combination drug
containing, as one of its active ingredients, ephedrine,
pseudoephedrine, phenylpropanolamine, or any of their salts,
optical isomers, or salts of optical isomers, or any number of
packages of said combination drug that contain a combined total
of no more than nine (9) grams of ephedrine, pseudoephedrine,
phenylpropanolamine, or any of their salts, optical isomers, or
salts of optical isomers.

(b) All packages of any drug having a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, shall be displayed and offered for sale only behind a checkout counter where the public is not permitted, or within six (6) feet and an unobstructed view of a register located on an attended checkout counter. This subsection shall not apply to any retailer utilizing an electronic anti-theft system that utilizes a product tag and detection alarm which specifically prevents the theft of such drugs from the place of business where such drugs are sold.

(c) This section shall supersede any municipal ordinances or regulations to the extent that such ordinance or regulations are more restrictive than the provisions of this section. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve (12) years of age, or to any products that the state department of health, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

(d) Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection (a) shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with

information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

(e) Any person who knowingly violates this section commits a Class A misdemeanor.

SECTION 2. This act shall take effect on July 1, 2005, the public welfare requiring it.